

109TH CONGRESS
1ST SESSION

S. 737

To amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2005

Mr. CRAIG (for himself, Mr. DURBIN, Mr. SUNUNU, Mr. FEINGOLD, Ms. MURKOWSKI, and Mr. SALAZAR) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Security and Freedom
5 Enhancement Act of 2005” or the “SAFE Act”.

1 **SEC. 2. LIMITATIONS ON ROVING WIRETAPS UNDER FOR-**
2 **IGN INTELLIGENCE SURVEILLANCE ACT OF**
3 **1978.**

4 Section 105(c) of the Foreign Intelligence Surveil-
5 lance Act of 1978 (50 U.S.C. 1805(c)) is amended—

6 (1) in paragraph (1), by striking subparagraphs
7 (A) and (B) and inserting the following:

8 “(A)(i) the identity of the target of the
9 electronic surveillance, if known; or

10 “(ii) if the identity of the target is not
11 known, a description of the target and the na-
12 ture and location of the facilities and places at
13 which the electronic surveillance will be di-
14 rected;

15 “(B)(i) the nature and location of each of
16 the facilities or places at which the electronic
17 surveillance will be directed, if known; or

18 “(ii) if any of the facilities or places are
19 not known, the identity of the target;”; and

20 (2) in paragraph (2)—

21 (A) by redesignating subparagraphs (B)
22 through (D) as subparagraphs (C) through (E),
23 respectively; and

24 (B) by inserting after subparagraph (A)
25 the following:

“(B) in cases where the facility or place at which the surveillance will be directed is not known at the time the order is issued, that the electronic surveillance be conducted only when the presence of the target at a particular facility or place is ascertained by the person conducting the surveillance;”.

SEC. 3. LIMITATIONS ON DELAYED NOTICE SEARCH WARRANTS.

(a) IN GENERAL.—Section 3103a(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “may have an adverse result (as defined in section 2705);” and inserting “will—

“(A) endanger the life or physical safety of an individual;

“(B) result in flight from prosecution;

“(C) result in the destruction of or tampering with evidence; or

“(D) result in intimidation of potential witnesses;”; and

(2) in paragraph (3), by striking “within a reasonable period” and all that follows and inserting “not later than 7 days after the execution of the warrant, which period may be extended by the court

1 for an additional period of not more than 21 days
2 each time the court finds reasonable cause to believe,
3 pursuant to a request by the Attorney General, the
4 Deputy Attorney General, or the Associate Attorney
5 General, that notice of the execution of the warrant
6 will—

7 “(A) endanger the life or physical safety of
8 an individual;

9 “(B) result in flight from prosecution;

10 “(C) result in the destruction of, or tam-
11 pering with, the evidence sought under the war-
12 rant; or

13 “(D) result in intimidation of potential
14 witnesses.”.

15 (b) REPORTS.—Section 3103a of title 18, United
16 States Code, is amended by adding at the end the fol-
17 lowing:

18 “(c) REPORTS.—

19 “(1) IN GENERAL.—Every 6 months, the Attor-
20 ney General shall submit a report to Congress sum-
21 marizing, with respect to warrants under subsection
22 (b), the requests made by the Department of Justice
23 to delay notice and extend a delay of notice during
24 the previous 6-month period.

1 “(2) CONTENTS.—Each report submitted under
2 paragraph (1) shall include, for the preceding 6-
3 month period—

4 “(A) the number of requests to delay no-
5 tice with respect to warrants under subsection
6 (b), categorized as granted, denied, or pending;

7 “(B) for each request to delay notice that
8 was granted, the number of requests to extend
9 the delay of notice, categorized as granted, de-
10 nied, or pending; and

11 “(C) on an aggregate basis, the nature of
12 the crime being investigated for each request to
13 delay notice that was granted or denied.

14 “(3) PUBLIC AVAILABILITY.—The Attorney
15 General shall make the report submitted under para-
16 graph (1) available to the public.”.

17 **SEC. 4. PRIVACY PROTECTIONS FOR LIBRARY, BOOK-**
18 **SELLER, AND OTHER PERSONAL RECORDS**
19 **UNDER FOREIGN INTELLIGENCE SURVEIL-**
20 **LANCE ACT OF 1978.**

21 (a) APPLICATIONS FOR ORDERS.—Section 501(b)(2)
22 of the Foreign Intelligence Surveillance Act of 1978 (50
23 U.S.C. 1861(b)(2)) is amended—

24 (1) by striking “shall specify that the records”
25 and inserting “shall specify that—

1 “(A) the records”;

2 (2) by striking the period at the end and insert-
3 ing the following: “; and”; and

4 (3) by inserting at the end the following:

5 “(B) there are specific and articulable
6 facts giving reason to believe that the person to
7 whom the records pertain is a foreign power or
8 an agent of a foreign power.”.

9 (b) ORDERS.—Section 501(c) of the Foreign Intel-
10 ligence Surveillance Act of 1978 (50 U.S.C. 1861(c)) is
11 amended—

12 (1) in paragraph (1), by striking “finds that”
13 and all that follows and inserting “finds that—

14 “(A) there are specific and articulable facts giv-
15 ing reason to believe that the person to whom the
16 records pertain is a foreign power or an agent of a
17 foreign power; and

18 “(B) the application meets the other require-
19 ments of this section.”; and

20 (2) by adding at the end the following:

21 “(3) An order under this subsection shall not—

22 “(A) contain any requirement which would be
23 held to be unreasonable if contained in a subpoena
24 duces tecum issued by a court of the United States

1 in aid of a grand jury investigation of espionage or
 2 international terrorism; or

3 “(B) require the production of any documen-
 4 tary evidence which would be privileged from disclo-
 5 sure if demanded by a subpoena duces tecum issued
 6 by a court of the United States in aid of a grand
 7 jury investigation of espionage or international ter-
 8 rorism.

9 “(4) An order under this subsection must provide no-
 10 tice of the recipient’s right to file a petition under sub-
 11 section (f) and explain the procedures for doing so.”.

12 (c) NONDISCLOSURE.—Section 501(d) of Foreign In-
 13 telligence Surveillance Act of 1978 (50 U.S.C. 1861(d))
 14 is amended to read as follows: “

15 “(d) NONDISCLOSURE.—

16 “(1) IN GENERAL.—No person who receives an
 17 order under subsection (c) shall disclose to any per-
 18 son that the Federal Bureau of Investigation has
 19 sought or obtained tangible things under this section
 20 for 180 days after receipt of such order.

21 “(2) EXCEPTION.—A person who receives an
 22 order under subsection (c) may disclose that the
 23 Federal Bureau of Investigation has sought or ob-
 24 tained tangible things under this section to—

1 “(A) those persons to whom disclosure is
2 necessary in order to comply with an order
3 under this section; or

4 “(B) an attorney in order to obtain legal
5 advice regarding such order.

6 “(3) EXTENSION.—The Director of the Federal
7 Bureau of Investigation, or a designee of the Direc-
8 tor (whose rank shall be no lower than Assistant
9 Special Agent in Charge), may apply for an order
10 prohibiting disclosure that the Federal Bureau of In-
11 vestigation has sought or obtained access to tangible
12 things under this section for an additional 180 days.

13 “(4) JURISDICTION.—An application for an
14 order pursuant to this subsection shall be made to—

15 “(A) a judge of the court established under
16 section 103(a); or

17 “(B) a United States Magistrate Judge
18 under chapter 43 of title 28, who is publicly
19 designated by the Chief Justice of the United
20 States to have the power to hear applications
21 and grant orders for the production of tangible
22 things under this section on behalf of a judge
23 of the court established under section 103(a).

24 “(5) APPLICATION CONTENTS.—An application
25 for an order pursuant to this subsection must state

1 specific and articulable facts giving the applicant
2 reason to believe that disclosure that the Federal
3 Bureau of Investigation has sought or obtained tan-
4 gible things under this section will result in—

5 “(A) endangering the life or physical safety
6 of any person;

7 “(B) flight from prosecution;

8 “(C) destruction of or tampering with evi-
9 dence;

10 “(D) intimidation of potential witnesses; or

11 “(E) otherwise seriously endangering the
12 national security of the United States by alert-
13 ing a target, a target’s associates, or the for-
14 eign power of which the target is an agent, of
15 the Government’s interest in the target.

16 “(6) STANDARD.—The judge may issue an ex
17 parte order pursuant to this subsection if the judge
18 determines there is reason to believe that disclosure
19 that the Federal Bureau of Investigation has sought
20 or obtained access to tangible things under this sec-
21 tion will result in—

22 “(A) endangering the life or physical safety
23 of any person;

24 “(B) flight from prosecution;

1 “(C) destruction of or tampering with evi-
2 dence;

3 “(D) intimidation of potential witnesses; or

4 “(E) otherwise seriously endangering the
5 national security of the United States by alert-
6 ing a target, a target’s associates, or the for-
7 eign power of which the target is an agent, of
8 the Government’s interest in the target.

9 “(7) RENEWAL.—An order under this sub-
10 section may be renewed for additional periods of up
11 to 180 days upon another application meeting the
12 requirements of paragraph (5) and a determination
13 by the court that the circumstances described in
14 paragraph (6) continue to exist.”.

15 (d) JUDICIAL REVIEW.—Section 501 of the Foreign
16 Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is
17 amended by adding at the end the following:

18 “(f) JUDICIAL REVIEW.—

19 “(1) ORDER FOR PRODUCTION.—Not later than
20 20 days after the service upon any person of an
21 order pursuant to subsection (c), or at any time be-
22 fore the return date specified in the order, whichever
23 period is shorter, such person may file, in the court
24 established under section 103(a) or in the district
25 court of the United States for the judicial district

1 within which such person resides, is found, or trans-
2 acts business, a petition for such court to modify or
3 set aside such order. The time allowed for compli-
4 ance with the order in whole or in part as deemed
5 proper and ordered by the court shall not run during
6 the pendency of such petition in the court. Such pe-
7 tition shall specify each ground upon which the peti-
8 tioner relies in seeking relief, and may be based
9 upon any failure of such order to comply with the
10 provisions of this section or upon any constitutional
11 or other legal right or privilege of such person.

12 “(2) NONDISCLOSURE ORDER.—

13 “(A) IN GENERAL.—A person prohibited
14 from disclosing information under subsection
15 (d) may file, in the courts established by section
16 103(a) or in the district court of the United
17 States for the judicial district within which such
18 person resides, is found, or transacts business,
19 a petition for such court to set aside the non-
20 disclosure requirement. Such petition shall
21 specify each ground upon which the petitioner
22 relies in seeking relief, and may be based upon
23 any failure of the nondisclosure requirement to
24 comply with the provisions of this section or

1 upon any constitutional or other legal right or
2 privilege of such person.

3 “(B) STANDARD.—The court shall set
4 aside the nondisclosure requirement unless the
5 court determines that there is reason to believe
6 that disclosure of the order under subsection (c)
7 will result in—

8 “(i) endangering the life or physical
9 safety of any person;

10 “(ii) flight from prosecution;

11 “(iii) destruction of or tampering with
12 evidence;

13 “(iv) intimidation of potential wit-
14 nesses; or

15 “(v) otherwise seriously endangering
16 the national security of the United States
17 by alerting a target, a target’s associates,
18 or the foreign power of which the target is
19 an agent, of the Government’s interest in
20 the target.

21 “(3) RULEMAKING.—

22 “(A) IN GENERAL.—Not later than 180
23 days after the date of enactment of the Security
24 and Freedom Enhancement Act of 2005, the
25 courts established pursuant to section 103(a)

1 shall establish such rules and procedures and
2 take such actions as are reasonably necessary to
3 administer their responsibilities under this sub-
4 section.

5 “(B) REPORTING.—Not later than 30 days
6 after promulgating rules and procedures under
7 subparagraph (A), the courts established pursu-
8 ant to section 103(a) shall transmit a copy of
9 the rules and procedures, unclassified to the
10 greatest extent possible (with a classified annex,
11 if necessary), to the Committee on the Judici-
12 ary and the Select Committee on Intelligence of
13 the Senate and the Committee on the Judiciary
14 and the Permanent Select Committee on Intel-
15 ligence of the House of Representatives.

16 “(4) DISCLOSURES TO PETITIONERS.—In mak-
17 ing determinations under this subsection, the court
18 shall disclose to the petitioner, the counsel of the pe-
19 titioner, or both, under the procedures and stand-
20 ards provided in the Classified Information Proce-
21 dures Act (18 U.S.C. App.), portions of the applica-
22 tion, order, or other related materials unless the
23 court finds that such disclosure would not assist in
24 determining any legal or factual issue pertinent to
25 the case.”.

1 (e) USE OF INFORMATION.—Section 501 of the For-
2 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1861), as amended by subsection (d), is amended by add-
4 ing at the end the following:

5 “(g) USE OF INFORMATION.—

6 “(1) IN GENERAL.—

7 “(A) CONSENT.—Any tangible things or
8 information acquired from an order pursuant to
9 this section concerning any United States per-
10 son may be used and disclosed by Federal offi-
11 cers and employees without the consent of the
12 United States person only in accordance with
13 the provisions of this subsection.

14 “(B) USE AND DISCLOSURE.—No tangible
15 things or information acquired from an order
16 pursuant to this section may be used or dis-
17 closed by Federal officers or employees except
18 for lawful purposes.

19 “(2) DISCLOSURE FOR LAW ENFORCEMENT
20 PURPOSES.—No tangible things or information ac-
21 quired pursuant to this section shall be disclosed for
22 law enforcement purposes unless such disclosure is
23 accompanied by a statement that such tangible
24 things or information, or any information derived
25 therefrom, may only be used in a criminal pro-

1 ceeding with the advance authorization of the Attor-
2 ney General.

3 “(3) NOTIFICATION OF INTENDED DISCLOSURE
4 BY THE UNITED STATES.—Whenever the United
5 States intends to enter into evidence or otherwise
6 use or disclose in any trial, hearing, or other pro-
7 ceeding in or before any court, department, officer,
8 agency, regulatory body, or other authority of the
9 United States against an aggrieved person any tan-
10 gible things or information obtained or derived from
11 an order pursuant to this section, the United States
12 shall, before the trial, hearing, or other proceeding
13 or at a reasonable time before an effort to so dis-
14 close or so use the tangible things or information or
15 submit them in evidence, notify the aggrieved person
16 and the court or other authority in which the tan-
17 gible things or information are to be disclosed or
18 used that the United States intends to so disclose or
19 so use such tangible things or information.

20 “(4) NOTIFICATION OF INTENDED DISCLOSURE
21 BY STATE OR POLITICAL SUBDIVISION.—Whenever
22 any State or political subdivision thereof intends to
23 enter into evidence or otherwise use or disclose in
24 any trial, hearing, or other proceeding in or before
25 any court, department, officer, agency, regulatory

1 body, or other authority of the State or political sub-
 2 division thereof against an aggrieved person any tan-
 3 gible things or information obtained or derived from
 4 an order pursuant to this section, the State or polit-
 5 ical subdivision thereof shall notify the aggrieved
 6 person, the court or other authority in which the
 7 tangible things or information are to be disclosed or
 8 used, and the Attorney General that the State or po-
 9 litical subdivision thereof intends to so disclose or so
 10 use such tangible things or information.

11 “(5) MOTION TO SUPPRESS.—

12 “(A) IN GENERAL.—Any aggrieved person
 13 against whom evidence obtained or derived from
 14 an order pursuant to this section is to be, or
 15 has been, introduced or otherwise used or dis-
 16 closed in any trial, hearing, or other proceeding
 17 in or before any court, department, officer,
 18 agency, regulatory body, or other authority of
 19 the United States, or a State or political sub-
 20 division thereof, may move to suppress the evi-
 21 dence obtained or derived from the order, as the
 22 case may be, on the grounds that—

23 “(i) the tangible things or information
 24 were acquired in violation of the Constitu-
 25 tion or laws of the United States; or

1 “(ii) the order was not in conformity
2 with the requirements of this section.

3 “(B) TIMING.—A motion under subpara-
4 graph (A) shall be made before the trial, hear-
5 ing, or other proceeding unless there was no op-
6 portunity to make such a motion or the ag-
7 grievd person concerned was not aware of the
8 grounds of the motion.

9 “(6) JUDICIAL REVIEW.—

10 “(A) IN GENERAL.—Whenever—

11 “(i) a court or other authority is noti-
12 fied pursuant to paragraph (3) or (4);

13 “(ii) a motion is made pursuant to
14 paragraph (5); or

15 “(iii) any motion or request is made
16 by an aggrieved person pursuant to any
17 other statute or rule of the United States
18 or any State before any court or other au-
19 thority of the United States or any State
20 to—

21 “(I) discover or obtain applica-
22 tions, orders, or other materials relat-
23 ing to an order issued pursuant to
24 this section; or

1 “(II) discover, obtain, or sup-
2 press evidence or information obtained
3 or derived from an order issued pur-
4 suant to this section;

5 the United States district court or, where the
6 motion is made before another authority, the
7 United States district court in the same district
8 as the authority shall, notwithstanding any
9 other provision of law and if the Attorney Gen-
10 eral files an affidavit under oath that disclosure
11 would harm the national security of the United
12 States, review in camera the application, order,
13 and such other related materials as may be nec-
14 essary to determine whether the order was law-
15 fully authorized and served.

16 “(B) DISCLOSURE.—In making a deter-
17 mination under subparagraph (A), unless the
18 court finds that such disclosure would not assist
19 in determining any legal or factual issue perti-
20 nent to the case, the court shall disclose to the
21 aggrieved person, the counsel of the aggrieved
22 person, or both, under the procedures and
23 standards provided in the Classified Informa-
24 tion Procedures Act (18 U.S.C. App.), portions
25 of the application, order, or other related mate-

1 rials, or evidence or information obtained or de-
2 rived from the order.

3 “(7) EFFECT OF DETERMINATION OF LAWFUL-
4 NESS.—

5 “(A) UNLAWFUL ORDERS.—If the United
6 States district court determines pursuant to
7 paragraph (6) that the order was not author-
8 ized or served in compliance with the Constitu-
9 tion or laws of the United States, the court
10 may, in accordance with the requirements of
11 law, suppress the evidence which was unlawfully
12 obtained or derived from the order or otherwise
13 grant the motion of the aggrieved person.

14 “(B) LAWFUL ORDERS.—If the court de-
15 termines that the order was lawfully authorized
16 and served, it may deny the motion of the ag-
17 grieved person except to the extent that due
18 process requires discovery or disclosure.

19 “(8) BINDING FINAL ORDERS.—Orders grant-
20 ing motions or requests under paragraph (6), deci-
21 sions under this section that an order was not law-
22 fully authorized or served, and orders of the United
23 States district court requiring review or granting
24 disclosure of applications, orders, or other related
25 materials shall be final orders and binding upon all

1 courts of the United States and the several States
2 except a United States court of appeals or the Su-
3 preme Court.”.

4 (f) OVERSIGHT OF REQUESTS FOR PRODUCTION OF
5 RECORDS.—Section 502(a) of the Foreign Intelligence
6 Surveillance Act of 1978 (50 U.S.C. 1862(a)) is amended
7 to read as follows:

8 “(a) On a semiannual basis, the Attorney General
9 shall, with respect to all requests for the production of
10 tangible things under section 501, fully inform—

11 “(1) the Select Committee on Intelligence of the
12 Senate;

13 “(2) the Committee on the Judiciary of the
14 Senate;

15 “(3) the Permanent Select Committee on Intel-
16 ligence of the House of Representatives; and

17 “(4) the Committee on the Judiciary of the
18 House of Representatives.”.

19 (g) DEFINITION.—Title V of the Foreign Intelligence
20 Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is
21 amended by adding at the end the following:

22 **“SEC. 503. DEFINITIONS.**

23 “In this title, the following definitions apply:

24 “(1) IN GENERAL.—Except as provided in this
25 section, terms used in this title that are also used

1 in title I shall have the meanings given such terms
2 by section 101.

3 “(2) AGGRIEVED PERSON.—The term ‘ag-
4 grievd person’ means any person whose tangible
5 things or information were acquired pursuant to an
6 order under this title.”.

7 **SEC. 5. PROCEDURAL PROTECTIONS FOR NATIONAL SECU-**
8 **RITY LETTERS.**

9 (a) STANDARD.—

10 (1) TITLE 18.—Section 2709(b) of title 18,
11 United States Code, is amended—

12 (A) in paragraph (1), by inserting “and
13 there are specific and articulable facts giving
14 reason to believe that the name, address, length
15 of service, and toll billing records sought per-
16 tain to a foreign power or agent of a foreign
17 power” after “clandestine intelligence activi-
18 ties”; and

19 (B) in paragraph (2), by striking “, pro-
20 vided that such an investigation” and all that
21 follows and inserting the following: “and there
22 are specific and articulable facts giving reason
23 to believe that communications facilities reg-
24 istered in the name of the person or entity have

1 been used, through the services of such pro-
2 vider, in communication with—

3 “(A) an individual who is engaging or has
4 engaged in international terrorism or clandes-
5 tine intelligence activities that involve or may
6 involve a violation of the criminal statutes of
7 the United States; or

8 “(B) a foreign power or an agent of a for-
9 eign power,

10 provided that such investigation of a United States
11 person is not conducted solely upon the basis of ac-
12 tivities protected by the first amendment of the Con-
13 stitution of the United States.”.

14 (2) FINANCIAL INSTITUTIONS.—Section
15 1114(a)(5)(A) of the Right to Financial Privacy Act
16 of 1978 (12 U.S.C. 3414(a)(5)(A)) is amended by
17 inserting “and there are specific and articulable
18 facts giving reason to believe that the records sought
19 pertain to a foreign power or agent of a foreign
20 power” after “clandestine intelligence activities”.

21 (3) CONSUMER REPORTING AGENCY.—

22 (A) IN GENERAL.—Section 625 of the Fair
23 Credit Reporting Act (15 U.S.C. 1681u) is
24 amended—

1 (i) in the second sentence of sub-
 2 section (a), by inserting “and there are
 3 specific and articulable facts giving reason
 4 to believe that the information sought per-
 5 tains to a foreign power or agent of a for-
 6 eign power” after “clandestine intelligence
 7 activities”;

8 (ii) in the second sentence of sub-
 9 section (b), by inserting “and there are
 10 specific and articulable facts giving reason
 11 to believe that the consumer is a foreign
 12 power or an agent of a foreign power or
 13 has been, or is about to be, in contact with
 14 a foreign power or an agent of a foreign
 15 power” after “clandestine intelligence ac-
 16 tivities”; and

17 (iii) in the first sentence of subsection
 18 (c), by inserting “and there are specific
 19 and articulable facts giving reason to be-
 20 lieve that the consumer report sought per-
 21 tains to a foreign power or agent of a for-
 22 eign power” after “clandestine intelligence
 23 activities”.

24 (B) GOVERNMENT AGENCIES.—Section
 25 626(a) of the Fair Credit Reporting Act (15

1 U.S.C. 1681v(a)) is amended by inserting “and
 2 there are specific and articulable facts giving
 3 reason to believe that the information sought
 4 pertains to a foreign power or agent of a for-
 5 eign power” after “necessary for the agency’s
 6 conduct or such investigation, activity or anal-
 7 ysis”.

8 (b) REQUIREMENTS.—

9 (1) Section 2709(b) of title 18, United States
 10 Code, as amended by subsection (a)(1) is amended
 11 by—

12 (A) redesignating paragraphs (1) and (2)
 13 as subparagraphs (A) and (B), respectively;

14 (B) striking “The Director of the Federal
 15 Bureau of Investigation” and inserting the fol-
 16 lowing:

17 “(1) IN GENERAL.—The Director of the Fed-
 18 eral Bureau of Investigation”; and

19 (C) adding after paragraph (1), as amend-
 20 ed by subparagraph (B), the following:

21 “(2) LIMITATION.—A request under this subsection
 22 shall not—

23 “(A) contain any requirement which would be
 24 held to be unreasonable if contained in a subpoena
 25 duces tecum issued by a court of the United States

1 in aid of a grand jury investigation of espionage or
 2 international terrorism; or

3 “(B) require the production of any documen-
 4 tary evidence which would be privileged from disclo-
 5 sure if demanded by a subpoena duces tecum issued
 6 by a court of the United States in aid of a grand
 7 jury investigation of espionage or international ter-
 8 rorism.

9 “(3) NOTICE.—A request under this subsection must
 10 provide notice of the recipient’s right to file a petition
 11 under subsection (e) and explain the procedures for doing
 12 so.”.

13 (2) REQUEST FOR INFORMATION FROM FINAN-
 14 CIAL INSTITUTIONS.—Section 1114(a)(5)(A) of the
 15 Right to Financial Privacy Act of 1978 (12 U.S.C.
 16 3414(a)(5)(A)), as amended by subsection (a)(2), is
 17 amended by—

18 (A) redesignating “Financial institutions”
 19 and everything that follows as clause (i); and

20 (B) adding after clause (i) the following
 21 new clauses:

22 “(ii) A request under this subsection shall
 23 not—

24 “(I) contain any requirement which would
 25 be held to be unreasonable if contained in a

subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of espionage or international terrorism; or

“(II) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of espionage or international terrorism.

“(iii) A request under this subsection must provide notice of the recipient’s right to file a petition under subparagraph (E) of this paragraph and explain the procedures for doing so.”.

(3) REQUEST FOR INFORMATION FROM CONSUMER REPORTING AGENCIES.—Section 625 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended by adding at the end the following:

“(n) LIMITATION.—

“(1) A request under this section shall not—

“(A) contain any requirement which would be held to be unreasonable if contained in a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of espionage or international terrorism; or

1 “(B) require the production of any docu-
 2 mentary evidence which would be privileged
 3 from disclosure if demanded by a subpoena
 4 duces tecum issued by a court of the United
 5 States in aid of a grand jury investigation of es-
 6 pionage or international terrorism.

7 “(2) A request under this section must provide
 8 notice of the recipient’s right to file a petition under
 9 subsection (o) and explain the procedures for doing
 10 so.”.

11 (4) REQUEST FOR INFORMATION FROM CON-
 12 SUMER REPORTING AGENCIES BY GOVERNMENTAL
 13 AGENCIES.—Section 626(b) of the Fair Credit Re-
 14 porting Act (15 U.S.C. 1681v(b)) is amended by—

15 (A) redesignating “The certification de-
 16 scribed” and all that follows as paragraph (1);
 17 and

18 (B) adding after paragraph (1) the fol-
 19 lowing new paragraphs:

20 “(2) A request under this subsection shall
 21 not—

22 “(A) contain any requirement which would
 23 be held to be unreasonable if contained in a
 24 subpoena duces tecum issued by a court of the

1 United States in aid of a grand jury investiga-
 2 tion of espionage or international terrorism; or

3 “(B) require the production of any docu-
 4 mentary evidence which would be privileged
 5 from disclosure if demanded by a subpoena
 6 duces tecum issued by a court of the United
 7 States in aid of a grand jury investigation of es-
 8 pionage or international terrorism.

9 “(3) A request under this subsection must pro-
 10 vide notice of the recipient’s right to file a petition
 11 under subsection (f) and explain the procedures for
 12 doing so.”.

13 (c) NONDISCLOSURE.—

14 (1) IN GENERAL.—Section 2709(c) of title 18,
 15 United States Code, is amended to read as follows:

16 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

17 “(1) IN GENERAL.—No wire or electronic com-
 18 munication service provider, or officer, employee, or
 19 agent thereof, shall disclose to any person that the
 20 Federal Bureau of Investigation has sought or ob-
 21 tained access to information or records under this
 22 section for 90 days after receipt of such request
 23 from the Bureau.

24 “(2) EXCEPTION.—A wire or electronic commu-
 25 nication service provider, or officer, employee, or

1 agent thereof, who receives an order under this sub-
2 section may disclose that the Federal Bureau of In-
3 vestigation has sought or obtained access to infor-
4 mation or records under this section to—

5 “(A) those persons to whom disclosure is
6 necessary in order to comply with an order
7 under this section; or

8 “(B) an attorney in order to obtain legal
9 advice regarding such order.

10 “(3) EXTENSION.—The Director of the Federal
11 Bureau of Investigation, or the Director’s designee
12 in a position not lower than Deputy Assistant Direc-
13 tor at Bureau headquarters or a Special Agent in
14 Charge of a Bureau field office designated by the
15 Director, may apply for an order prohibiting disclo-
16 sure that the Federal Bureau of Investigation has
17 sought or obtained access to information or records
18 under this section for an additional 180 days.

19 “(4) JURISDICTION.—An application for an
20 order pursuant to this subsection shall be filed in
21 the district court of the United States in any district
22 within which the authorized investigation that is the
23 basis for a request pursuant to this section is being
24 conducted.

1 “(5) APPLICATION CONTENTS.—An application
2 for an order pursuant to this subsection must state
3 specific and articulable facts giving the applicant
4 reason to believe that disclosure that the Federal
5 Bureau of Investigation has sought or obtained ac-
6 cess to information or records under this section will
7 result in—

8 “(A) endangering the life or physical safety
9 of any person;

10 “(B) flight from prosecution;

11 “(C) destruction of or tampering with evi-
12 dence;

13 “(D) intimidation of potential witnesses; or

14 “(E) otherwise seriously endangering the
15 national security of the United States by alert-
16 ing a target, a target’s associates, or the for-
17 eign power of which the target is an agent, of
18 the Government’s interest in the target.

19 “(6) STANDARD.—The court may issue an ex
20 parte order pursuant to this subsection if the court
21 determines there is reason to believe that disclosure
22 that the Federal Bureau of Investigation has sought
23 or obtained access to information or records under
24 this section will result in—

1 “(A) endangering the life or physical safety
2 of any person;

3 “(B) flight from prosecution;

4 “(C) destruction of or tampering with evi-
5 dence;

6 “(D) intimidation of potential witnesses; or

7 “(E) otherwise seriously endangering the
8 national security of the United States by alert-
9 ing a target, a target’s associates, or the for-
10 eign power of which the target is an agent, of
11 the Government’s interest in the target.

12 “(7) RENEWAL.—An order under this sub-
13 section may be renewed for additional periods of up
14 to 180 days upon another application meeting the
15 requirements of paragraph (5) and a determination
16 by the court that the circumstances described in
17 paragraph (6) continue to exist.”.

18 (2) FINANCIAL INSTITUTIONS.—Section
19 1114(a)(5)(D) of the Right to Financial Privacy Act
20 of 1978 (12 U.S.C. 3414(a)(5)(D)) is amended to
21 read as follows:

22 “(D) NONDISCLOSURE.—

23 “(i) IN GENERAL.—No financial institution, or
24 officer, employee, or agent of such institution, shall
25 disclose to any person that the Federal Bureau of

1 Investigation has sought or obtained access to a cus-
2 tomer's or entity's financial records under this para-
3 graph for 90 days after receipt of such request from
4 the Bureau.

5 “(ii) EXCEPTION.—A financial institution, or
6 officer, employee, or agent of such institution, who
7 receives an order under this subparagraph may dis-
8 close that the Federal Bureau of Investigation has
9 sought or obtained access to a customer's or entity's
10 financial records to—

11 “(I) those persons to whom disclosure is
12 necessary in order to comply with a request
13 under this subparagraph; or

14 “(II) an attorney in order to obtain legal
15 advice regarding such request.

16 “(iii) EXTENSION.—The Director of the Fed-
17 eral Bureau of Investigation, or the Director's des-
18 ignee in a position not lower than Deputy Assistant
19 Director at Bureau headquarters or a Special Agent
20 in Charge of a Bureau field office designated by the
21 Director, may apply for an order prohibiting disclo-
22 sure that the Federal Bureau of Investigation has
23 sought or obtained access to a customer's or entity's
24 financial records under this paragraph for an addi-
25 tional 180 days.

1 “(iv) JURISDICTION.—An application for an
2 order pursuant to this subsection shall be filed in
3 the district court of the United States in any district
4 within which the authorized investigation that is the
5 basis for a request pursuant to this paragraph is
6 being conducted.

7 “(v) APPLICATION CONTENTS.—An application
8 for an order pursuant to this subparagraph must
9 state specific and articulable facts giving the appli-
10 cant reason to believe that disclosure that the Fed-
11 eral Bureau of Investigation has sought or obtained
12 access to a customer’s or entity’s financial records
13 under this paragraph will result in—

14 “(I) endangering the life or physical safety
15 of any person;

16 “(II) flight from prosecution;

17 “(III) destruction of or tampering with evi-
18 dence;

19 “(IV) intimidation of potential witnesses;
20 or

21 “(V) otherwise seriously endangering the
22 national security of the United States by alert-
23 ing a target, a target’s associates, or the for-
24 eign power of which the target is an agent, of
25 the Government’s interest in the target.

1 “(vi) STANDARD.—The court may issue an ex
2 parte order pursuant to this subparagraph if the
3 court determines there is reason to believe that dis-
4 closure that the Federal Bureau of Investigation has
5 sought or obtained access to a customer’s or entity’s
6 financial records under this paragraph will result
7 in—

8 “(I) endangering the life or physical safety
9 of any person;

10 “(II) flight from prosecution;

11 “(III) destruction of or tampering with evi-
12 dence;

13 “(IV) intimidation of potential witnesses;
14 or

15 “(V) otherwise seriously endangering the
16 national security of the United States by alert-
17 ing a target, a target’s associates, or the for-
18 eign power of which the target is an agent, of
19 the Government’s interest in the target.

20 “(vii) RENEWAL.—An order under this sub-
21 paragraph may be renewed for additional periods of
22 up to 180 days upon another application meeting
23 the requirements of clause (v) and a determination
24 by the court that the circumstances described in
25 clause (vi) of this subparagraph continue to exist.”.

1 (3) CONSUMER REPORTING AGENCIES.—Section
2 625(d) of the Fair Credit Reporting Act (15 U.S.C.
3 1681u(d)) is amended to read as follows:

4 “(d) CONFIDENTIALITY.—

5 “(1) IN GENERAL.—No consumer reporting
6 agency, or officer, employee, or agent of a consumer
7 reporting agency, shall disclose to any person that
8 the Federal Bureau of Investigation has sought or
9 obtained the identity of financial institutions or a
10 consumer report respecting any consumer under
11 subsection (a), (b), or (c) for 90 days after receipt
12 of a request or order under this section, and no con-
13 sumer reporting agency, or officer, employee, or
14 agent of a consumer reporting agency, shall include
15 in any consumer report any information that would
16 indicate that the Federal Bureau of Investigation
17 has sought or obtained such information or a con-
18 sumer report.

19 “(2) EXCEPTION.—A consumer reporting agen-
20 cy or officer, employee, or agent of a consumer re-
21 porting agency who receives an order under this sub-
22 section may disclose that the Federal Bureau of In-
23 vestigation has sought or obtained the identity of fi-
24 nancial institutions or a consumer report respecting
25 any consumer to—

1 “(A) those officers, employees, or agents of
2 a consumer reporting agency necessary to fulfill
3 the requirement to disclose information to the
4 Federal Bureau of Investigation under this sec-
5 tion; or

6 “(B) an attorney in order to obtain legal
7 advice regarding such requirement.

8 “(3) EXTENSION.—The Director of the Federal
9 Bureau of Investigation, or the Director’s designee
10 in a position not lower than Deputy Assistant Direc-
11 tor at Bureau headquarters or a Special Agent in
12 Charge of a Bureau field office designated by the
13 Director, may apply for an order prohibiting disclo-
14 sure that the Federal Bureau of Investigation has
15 sought or obtained access to information or records
16 under subsection (a), (b), or (c) for an additional
17 180 days.

18 “(4) JURISDICTION.—An application for an
19 order pursuant to this subsection shall be filed in
20 the district court of the United States in any district
21 within which the authorized investigation that is the
22 basis for a request or order pursuant to this section
23 is being conducted.

24 “(5) APPLICATION CONTENTS.—An application
25 for an order pursuant to this subsection must state

1 specific and articulable facts giving the applicant
2 reason to believe that disclosure that the Federal
3 Bureau of Investigation has sought or obtained the
4 identity of financial institutions or a consumer re-
5 port respecting any consumer under subsection (a),
6 (b), or (c) will result in—

7 “(A) endangering the life or physical safety
8 of any person;

9 “(B) flight from prosecution;

10 “(C) destruction of or tampering with evi-
11 dence;

12 “(D) intimidation of potential witnesses; or

13 “(E) otherwise seriously endangering the
14 national security of the United States by alert-
15 ing a target, a target’s associates, or the for-
16 eign power of which the target is an agent, of
17 the Government’s interest in the target.

18 “(6) STANDARD.—The court may issue an ex
19 parte order pursuant to this subsection if the court
20 determines there is reason to believe that disclosure
21 that the Federal Bureau of Investigation has sought
22 or obtained the identity of financial institutions or a
23 consumer report respecting any consumer under
24 subsection (a), (b), or (c) will result in—

1 “(A) endangering the life or physical safety
2 of any person;

3 “(B) flight from prosecution;

4 “(C) destruction of or tampering with evi-
5 dence;

6 “(D) intimidation of potential witnesses; or

7 “(E) otherwise seriously endangering the
8 national security of the United States by alert-
9 ing a target, a target’s associates, or the for-
10 eign power of which the target is an agent, of
11 the Government’s interest in the target.

12 “(7) RENEWAL.—An order under this sub-
13 section may be renewed for additional periods of up
14 to 180 days upon another application meeting the
15 requirements of paragraph (5) and a determination
16 by the court that the circumstances described in
17 paragraph (6) continue to exist.”.

18 (4) CONSUMER REPORTING AGENCIES REPORT-
19 ING TO GOVERNMENTAL AGENCIES.—Section 626(c)
20 of the Fair Credit Reporting Act (15 U.S.C.
21 1681v(c)) is amended to read as follows:

22 “(c) CONFIDENTIALITY.—

23 “(1) IN GENERAL.—No consumer reporting
24 agency, or officer, employee, or agent of a consumer
25 reporting agency, shall disclose to any person or

1 specify in any credit report that a government agen-
2 cy has sought or obtained access to information
3 under subsection (a) for 90 days after receipt of the
4 request for such information.

5 “(2) EXCEPTION.—A consumer reporting agen-
6 cy, or officer, employee, or agent of a consumer re-
7 porting agency, may disclose that a government
8 agency has sought or obtained access to information
9 under subsection (a) to—

10 “(A) those officers, employees, or agents of
11 a consumer reporting agency necessary to fulfill
12 the requirement to disclose information to the
13 Federal Bureau of Investigation under this sec-
14 tion; or

15 “(B) an attorney in order to obtain legal
16 advice regarding such requirement.

17 “(3) EXTENSION.—The supervisory official or
18 officer who signs a certification under subsection (b)
19 may apply in any district court of the United States
20 for an order prohibiting disclosure that a govern-
21 ment agency has sought or obtained access to infor-
22 mation under subsection (a) for an additional 180
23 days.

24 “(4) APPLICATION CONTENTS.—An application
25 for an order pursuant to this subsection must state

1 specific and articulable facts giving the applicant
2 reason to believe that disclosure that a government
3 agency has sought or obtained access to information
4 under subsection (a) will result in—

5 “(A) endangering the life or physical safety
6 of any person;

7 “(B) flight from prosecution;

8 “(C) destruction of or tampering with evi-
9 dence;

10 “(D) intimidation of potential witnesses; or

11 “(E) otherwise seriously endangering the
12 national security of the United States by alert-
13 ing a target, a target’s associates, or the for-
14 eign power of which the target is an agent, of
15 the Government’s interest in the target.

16 “(5) STANDARD.—The court may issue an ex
17 parte order pursuant to this subsection if the court
18 determines there is reason to believe that disclosure
19 that a government agency has sought or obtained
20 access to information under subsection (a) will result
21 in—

22 “(A) endangering the life or physical safety
23 of any person;

24 “(B) flight from prosecution;

1 “(C) destruction of or tampering with evi-
2 dence;

3 “(D) intimidation of potential witnesses; or

4 “(E) otherwise seriously endangering the
5 national security of the United States by alert-
6 ing a target, a target’s associates, or the for-
7 eign power of which the target is an agent, of
8 the Government’s interest in the target.

9 “(6) RENEWAL.—An order under this sub-
10 section may be renewed for additional periods of up
11 to 180 days upon another application meeting the
12 requirements of paragraph (4) and a determination
13 by the court that the circumstances described in
14 paragraph (5) continue to exist.”.

15 (d) JUDICIAL REVIEW.—

16 (1) IN GENERAL.—Section 2709 of title 18,
17 United States Code, is amended by—

18 (A) redesignating subsection (e) as sub-
19 section (g); and

20 (B) inserting after subsection (d) the fol-
21 lowing:

22 “(e) JUDICIAL REVIEW.—

23 “(1) REQUEST.—Not later than 20 days after
24 any person receives a request pursuant to subsection
25 (b), or at any time before the return date specified

1 in the request, whichever period is shorter, such per-
2 son may file, in the district court of the United
3 States for the judicial district within which such per-
4 son resides, is found, or transacts business, a peti-
5 tion for such court to modify or set aside such re-
6 quest. The time allowed for compliance with the re-
7 quest in whole or in part as deemed proper and or-
8 dered by the court shall not run during the pendency
9 of such petition in the court. Such petition shall
10 specify each ground upon which the petitioner relies
11 in seeking relief, and may be based upon any failure
12 of such request to comply with the provisions of this
13 section or upon any constitutional or other legal
14 right or privilege of such person.

15 “(2) NONDISCLOSURE.—

16 “(A) IN GENERAL.—A person prohibited
17 from disclosing information under subsection
18 (c) may file, in the district court of the United
19 States for the judicial district within which such
20 person resides, is found, or transacts business,
21 a petition for the court to set aside the non-
22 disclosure requirement. Such petition shall
23 specify each ground upon which the petitioner
24 relies in seeking relief, and may be based upon
25 any failure of the nondisclosure requirement to

1 comply with the provisions of this section or
2 upon any constitutional or other legal right or
3 privilege of such person.

4 “(B) STANDARD.—The court shall set
5 aside the nondisclosure requirement unless the
6 court determines that there is a reason to be-
7 lieve that disclosure of the request under sub-
8 section (b) will result in—

9 “(i) endangering the life or physical
10 safety of any person;

11 “(ii) flight from prosecution;

12 “(iii) destruction of or tampering with
13 evidence;

14 “(iv) intimidation of potential wit-
15 nesses; or

16 “(v) otherwise seriously endangering
17 the national security of the United States
18 by alerting a target, a target’s associates,
19 or the foreign power of which the target is
20 an agent, of the Government’s interest in
21 the target.

22 “(3) DISCLOSURE.—In making determinations
23 under this subsection, the court shall disclose to the
24 petitioner, the counsel of the petitioner, or both,
25 under the procedures and standards provided in the

1 Classified Information Procedures Act (18 U.S.C.
2 App.), portions of the application, order, or other re-
3 lated materials unless the court finds that such dis-
4 closure would not assist in determining any legal or
5 factual issue pertinent to the case.”.

6 (2) FINANCIAL RECORD REQUESTS.—Section
7 1114(a)(5) of the Right to Financial Privacy Act of
8 1978 (12 U.S.C. 3414(a)(5)), as amended by sub-
9 sections (a), (b), and (c) of this section, is amended
10 by adding at the end the following:

11 “(E) JUDICIAL REVIEW.—

12 “(i) IN GENERAL.—Not later than 20 days
13 after any person receives a request pursuant to sub-
14 paragraph (A), or at any time before the return date
15 specified in the request, whichever period is shorter,
16 such person may file, in the district court of the
17 United States for the judicial district within which
18 such person resides, is found, or transacts business,
19 a petition for the court to modify or set aside the
20 request. The time allowed for compliance with the
21 request in whole or in part as deemed proper and or-
22 dered by the court shall not run during the pendency
23 of the petition in the court. The petition shall speci-
24 fy each ground upon which the petitioner relies in
25 seeking relief, and may be based upon any failure of

1 the request to comply with the provisions of this
2 paragraph or upon any constitutional or other legal
3 right or privilege of the petitioner.

4 “(ii) NONDISCLOSURE.—

5 “(I) IN GENERAL.—A person prohibited
6 from disclosing information under subpara-
7 graph (D) may file, in the district court of the
8 United States for the judicial district within
9 which the recipient resides, is found, or trans-
10 acts business, a petition for the court to set
11 aside the nondisclosure requirement. The peti-
12 tion shall specify each ground upon which the
13 petitioner relies in seeking the relief, and may
14 be based upon any failure of the nondisclosure
15 requirement to comply with the provisions of
16 this section or upon any constitutional or other
17 legal right or privilege of the petitioner.

18 “(II) STANDARD.—The court shall set
19 aside the nondisclosure requirement unless the
20 court determines that there is a reason to be-
21 lieve that disclosure of the request under sub-
22 paragraph (A) will result in—

23 “(aa) endangering the life or physical
24 safety of any person;

25 “(bb) flight from prosecution;

1 “(cc) destruction of or tampering with
2 evidence;

3 “(dd) intimidation of potential wit-
4 nesses; or

5 “(ee) otherwise seriously endangering
6 the national security of the United States
7 by alerting a target, a target’s associates,
8 or the foreign power of which the target is
9 an agent, of the Government’s interest in
10 the target.

11 “(iii) DISCLOSURE.—In making determinations
12 under this subparagraph, the court shall disclose to
13 the petitioner, the counsel of the petitioner, or both,
14 under the procedures and standards provided in the
15 Classified Information Procedures Act (18 U.S.C.
16 App.), portions of the application, order, or other re-
17 lated materials unless the court finds that such dis-
18 closure would not assist in determining any legal or
19 factual issue pertinent to the case.”.

20 (3) CONSUMER REPORT REQUESTS.—Section
21 625 of the Fair Credit Reporting Act (15 U.S.C.
22 1681u), as amended by subsection (b) of this sec-
23 tion, is amended by adding at the end the following:

24 “(o) JUDICIAL REVIEW.—

1 “(1) IN GENERAL.—Not later than 20 days
2 after any person receives a request or order pursu-
3 ant to subsection (a), (b), or (c), or at any time be-
4 fore the return date specified in the request or
5 order, whichever period is shorter, such person may
6 file, in the district court of the United States for the
7 judicial district within which such person resides, is
8 found, or transacts business, a petition for the court
9 to modify or set aside the request or order. The time
10 allowed for compliance with the request or order in
11 whole or in part as deemed proper and ordered by
12 the court shall not run during the pendency of the
13 petition in the court. The petition shall specify each
14 ground upon which the petitioner relies in seeking
15 the relief, and may be based upon any failure of the
16 request or order to comply with the provisions of
17 this section or upon any constitutional or other legal
18 right or privilege of the petitioner.

19 “(2) NONDISCLOSURE.—

20 “(A) IN GENERAL.—A person prohibited
21 from disclosing information under subsection
22 (d) may file, in the district court of the United
23 States for the judicial district within which the
24 recipient resides, is found, or transacts busi-
25 ness, a petition for the court to set aside the

1 nondisclosure requirement. The petition shall
2 specify each ground upon which the petitioner
3 relies in seeking the relief, and may be based
4 upon any failure of the nondisclosure require-
5 ment to comply with the provisions of this sec-
6 tion or upon any constitutional or other legal
7 right or privilege of the petitioner.

8 “(B) STANDARD.—The court shall set
9 aside the nondisclosure requirement unless the
10 court determines that there is a reason to be-
11 lieve that disclosure of request or order under
12 subsection (a), (b), or (c) will result in—

13 “(i) endangering the life or physical
14 safety of any person;

15 “(ii) flight from prosecution;

16 “(iii) destruction of or tampering with
17 evidence;

18 “(iv) intimidation of potential wit-
19 nesses; or

20 “(v) otherwise seriously endangering
21 the national security of the United States
22 by alerting a target, a target’s associates,
23 or the foreign power of which the target is
24 an agent, of the Government’s interest in
25 the target.

1 “(3) DISCLOSURE.—In making determinations
 2 under this subsection, the court shall disclose to the
 3 petitioner, the counsel of the petitioner, or both,
 4 under the procedures and standards provided in the
 5 Classified Information Procedures Act (18 U.S.C.
 6 App.), portions of the application, order, or other re-
 7 lated materials unless the court finds that such dis-
 8 closure would not assist in determining any legal or
 9 factual issue pertinent to the case.”.

10 (4) CONSUMER REPORT REQUESTS BY GOVERN-
 11 MENTAL AGENCIES.—Section 626 of the Fair Credit
 12 Reporting Act (15 U.S.C. 1681v) is amended by
 13 adding at the end the following:

14 “(f) JUDICIAL REVIEW.—

15 “(1) IN GENERAL.—Not later than 20 days
 16 after any person receives a request pursuant to sub-
 17 section (a), or at any time before the return date
 18 specified in the request, whichever period is shorter,
 19 such person may file, in the district court of the
 20 United States for the judicial district within which
 21 such person resides, is found, or transacts business,
 22 a petition for the court to modify or set aside the
 23 request. The time allowed for compliance with the
 24 request in whole or in part as deemed proper and or-
 25 dered by the court shall not run during the pendency

1 of the petition in the court. The petition shall speci-
2 fy each ground upon which the petitioner relies in
3 seeking the relief, and may be based upon any fail-
4 ure of the request to comply with the provisions of
5 this section or upon any constitutional or other legal
6 right or privilege of the petitioner.

7 “(2) NONDISCLOSURE.—

8 “(A) IN GENERAL.—A person prohibited
9 from disclosing information under subsection
10 (c) may file, in the district court of the United
11 States for the judicial district within which the
12 recipient resides, is found, or transacts busi-
13 ness, a petition for the court to set aside the
14 nondisclosure requirement. The petition shall
15 specify each ground upon which the petitioner
16 relies in seeking the relief, and may be based
17 upon any failure of the nondisclosure require-
18 ment to comply with the provisions of this sec-
19 tion or upon any constitutional or other legal
20 right or privilege of the petitioner.

21 “(B) STANDARD.—The court shall set
22 aside the nondisclosure requirement unless the
23 court determines that there is a reason to be-
24 lieve that disclosure of the request under sub-
25 section (a) will result in—

1 “(i) endangering the life or physical
2 safety of any person;

3 “(ii) flight from prosecution;

4 “(iii) destruction of or tampering with
5 evidence;

6 “(iv) intimidation of potential wit-
7 nesses; or

8 “(v) otherwise seriously endangering
9 the national security of the United States
10 by alerting a target, a target’s associates,
11 or the foreign power of which the target is
12 an agent, of the Government’s interest in
13 the target.

14 “(3) DISCLOSURE.—In making determinations
15 under this subsection, the court shall disclose to the
16 petitioner, the counsel of the petitioner, or both,
17 under the procedures and standards provided in the
18 Classified Information Procedures Act (18 U.S.C.
19 App.), portions of the application, order, or other re-
20 lated materials unless the court finds that such dis-
21 closure would not assist in determining any legal or
22 factual issue pertinent to the case.”.

23 (e) USE OF INFORMATION.—

24 (1) IN GENERAL.—Section 2709 of title 18,
25 United States Code, as amended by subsection (d),

1 is amended by inserting after subsection (e) the fol-
2 lowing:

3 “(f) USE OF INFORMATION.—

4 “(1) IN GENERAL.—

5 “(A) CONSENT.—Any information ac-
6 quired from a request pursuant to this section
7 concerning any United States person may be
8 used and disclosed by Federal officers and em-
9 ployees without the consent of the United
10 States person only in accordance with the provi-
11 sions of this subsection.

12 “(B) LAWFUL PURPOSE.—No information
13 acquired from an order pursuant to this section
14 may be used or disclosed by Federal officers or
15 employees except for lawful purposes.

16 “(2) DISCLOSURE FOR LAW ENFORCEMENT
17 PURPOSES.—No information acquired pursuant to
18 this section shall be disclosed for law enforcement
19 purposes unless such disclosure is accompanied by a
20 statement that such information, or any information
21 derived therefrom, may only be used in a criminal
22 proceeding with the advance authorization of the At-
23 torney General.

24 “(3) NOTIFICATION OF INTENDED DISCLOSURE
25 BY THE UNITED STATES.—Whenever the United

1 States intends to enter into evidence or otherwise
2 use or disclose in any trial, hearing, or other pro-
3 ceeding in or before any court, department, officer,
4 agency, regulatory body, or other authority of the
5 United States against an aggrieved person any infor-
6 mation obtained or derived from a request pursuant
7 to this section, the United States shall, before the
8 trial, hearing, or other proceeding or at a reasonable
9 time before an effort to so disclose or so use this in-
10 formation or submit it in evidence, notify the ag-
11 grievied person and the court or other authority in
12 which the information is to be disclosed or used that
13 the United States intends to so disclose or so use
14 such information.

15 “(4) NOTIFICATION OF INTENDED DISCLOSURE
16 BY STATE OR POLITICAL SUBDIVISION.—Whenever
17 any State or political subdivision thereof intends to
18 enter into evidence or otherwise use or disclose in
19 any trial, hearing, or other proceeding in or before
20 any court, department, officer, agency, regulatory
21 body, or other authority of the State or political sub-
22 division thereof against an aggrieved person any in-
23 formation obtained or derived from a request pursu-
24 ant to this section, the State or political subdivision
25 thereof shall notify the aggrieved person, the court

1 or other authority in which the information is to be
 2 disclosed or used, and the Attorney General that the
 3 State or political subdivision thereof intends to so
 4 disclose or so use such information.

5 “(5) MOTION TO SUPPRESS.—

6 “(A) IN GENERAL.—Any aggrieved person
 7 against whom evidence obtained or derived from
 8 a request pursuant to this section is to be, or
 9 has been, introduced or otherwise used or dis-
 10 closed in any trial, hearing, or other proceeding
 11 in or before any court, department, officer,
 12 agency, regulatory body, or other authority of
 13 the United States, or a State or political sub-
 14 division thereof, may move to suppress the evi-
 15 dence obtained or derived from the request, as
 16 the case may be, on the grounds that—

17 “(i) the information was acquired in
 18 violation of the Constitution or laws of the
 19 United States; or

20 “(ii) the request was not in con-
 21 formity with the requirements of this sec-
 22 tion.

23 “(B) TIMING.—A motion under subpara-
 24 graph (A) shall be made before the trial, hear-
 25 ing, or other proceeding unless there was no op-

1 portunity to make such a motion or the ag-
2 grievd person concerned was not aware of the
3 grounds of the motion.

4 “(6) JUDICIAL REVIEW.—

5 “(A) IN GENERAL.—Whenever—

6 “(i) a court or other authority is noti-
7 fied pursuant to paragraph (3) or (4);

8 “(ii) a motion is made pursuant to
9 paragraph (5); or

10 “(iii) any motion or request is made
11 by an aggrieved person pursuant to any
12 other statute or rule of the United States
13 or any State before any court or other au-
14 thority of the United States or any State
15 to—

16 “(I) discover or obtain materials
17 relating to a request issued pursuant
18 to this section; or

19 “(II) discover, obtain, or sup-
20 press evidence or information obtained
21 or derived from a request issued pur-
22 suant to this section;

23 the United States district court or, where the
24 motion is made before another authority, the
25 United States district court in the same district

1 as the authority shall, notwithstanding any
2 other provision of law and if the Attorney Gen-
3 eral files an affidavit under oath that disclosure
4 would harm the national security of the United
5 States, review in camera the materials as may
6 be necessary to determine whether the request
7 was lawful.

8 “(B) DISCLOSURE.—In making a deter-
9 mination under subparagraph (A), unless the
10 court finds that such disclosure would not assist
11 in determining any legal or factual issue perti-
12 nent to the case, the court shall disclose to the
13 aggrieved person, the counsel of the aggrieved
14 person, or both, under the procedures and
15 standards provided in the Classified Informa-
16 tion Procedures Act (18 U.S.C. App.), portions
17 of the application, order, or other related mate-
18 rials, or evidence or information obtained or de-
19 rived from the order.

20 “(7) EFFECT OF DETERMINATION OF LAWFUL-
21 NESS.—

22 “(A) UNLAWFUL ORDERS.—If the United
23 States district court determines pursuant to
24 paragraph (6) that the request was not in com-
25 pliance with the Constitution or laws of the

1 United States, the court may, in accordance
2 with the requirements of law, suppress the evi-
3 dence which was unlawfully obtained or derived
4 from the request or otherwise grant the motion
5 of the aggrieved person.

6 “(B) **LAWFUL ORDERS.**—If the court de-
7 termines that the request was lawful, it may
8 deny the motion of the aggrieved person except
9 to the extent that due process requires dis-
10 covery or disclosure.

11 “(8) **BINDING FINAL ORDERS.**—Orders grant-
12 ing motions or requests under paragraph (6), deci-
13 sions under this section that a request was not law-
14 ful, and orders of the United States district court
15 requiring review or granting disclosure of applica-
16 tions, orders, or other related materials shall be final
17 orders and binding upon all courts of the United
18 States and the several States except a United States
19 court of appeals or the Supreme Court.

20 “(g) **DEFINITIONS.**—As used in this section—

21 “(1) the term ‘agent of a foreign power’ has the
22 meaning given such term by section 101(b) of the
23 Foreign Intelligence Surveillance Act of 1978 (50
24 U.S.C. 1801(b));

1 “(2) the term ‘aggrieved person’ means a per-
 2 son whose name, address, length of service, or local
 3 or long distance toll records were sought or obtained
 4 under this section; and

5 “(3) the term ‘foreign power’ has the meaning
 6 given such term by section 101(a) of the Foreign In-
 7 telligence Surveillance Act of 1978 (50 U.S.C.
 8 1801(a)).”.

9 (2) FINANCIAL RECORDS.—Section 1114 of the
 10 Right to Financial Privacy Act of 1978 (12 U.S.C.
 11 3414) is amended by inserting after subsection (b)
 12 the following:

13 “(c) USE OF INFORMATION.—

14 “(1) IN GENERAL.—

15 “(A) CONSENT.—Any information ac-
 16 quired from a request pursuant to this section
 17 concerning any United States person may be
 18 used and disclosed by Federal officers and em-
 19 ployees without the consent of the United
 20 States person only in accordance with the provi-
 21 sions of this subsection.

22 “(B) LAWFUL PURPOSE.—No information
 23 acquired from an order pursuant to this section
 24 may be used or disclosed by Federal officers or
 25 employees except for lawful purposes.

1 “(2) DISCLOSURE FOR LAW ENFORCEMENT
2 PURPOSES.—No information acquired pursuant to
3 this section shall be disclosed for law enforcement
4 purposes unless the disclosure is accompanied by a
5 statement that the information, or any information
6 derived therefrom, may only be used in a criminal
7 proceeding with the advance authorization of the At-
8 torney General.

9 “(3) NOTIFICATION OF INTENDED DISCLOSURE
10 BY THE UNITED STATES.—Whenever the United
11 States intends to enter into evidence or otherwise
12 use or disclose in any trial, hearing, or other pro-
13 ceeding in or before any court, department, officer,
14 agency, regulatory body, or other authority of the
15 United States against an aggrieved person any infor-
16 mation obtained or derived from a request pursuant
17 to this section, the United States shall, before the
18 trial, hearing, or other proceeding, or at a reason-
19 able time before an effort to so disclose or so use
20 this information or submit it in evidence, notify the
21 aggrieved person and the court or other authority in
22 which the information is to be disclosed or used that
23 the United States intends to so disclose or so use
24 such information.

1 “(4) NOTIFICATION OF INTENDED DISCLOSURE
2 BY STATE OR POLITICAL SUBDIVISION.—Whenever
3 any State or political subdivision thereof intends to
4 enter into evidence or otherwise use or disclose in
5 any trial, hearing, or other proceeding in or before
6 any court, department, officer, agency, regulatory
7 body, or other authority of the State or political sub-
8 division thereof against an aggrieved person any in-
9 formation obtained or derived from a request pursu-
10 ant to this section, the State or political subdivision
11 thereof shall notify the aggrieved person, the court
12 or other authority in which the information is to be
13 disclosed or used, and the Attorney General that the
14 State or political subdivision thereof intends to so
15 disclose or so use such information.

16 “(5) MOTION TO SUPPRESS.—

17 “(A) IN GENERAL.—Any aggrieved person
18 against whom evidence obtained or derived from
19 a request pursuant to this section is to be, or
20 has been, introduced or otherwise used or dis-
21 closed in any trial, hearing, or other proceeding
22 in or before any court, department, officer,
23 agency, regulatory body, or other authority of
24 the United States, or a State or political sub-
25 division thereof, may move to suppress the evi-

1 dence obtained or derived from the request, as
2 the case may be, on the grounds that—

3 “(i) the information was acquired in
4 violation of the Constitution or laws of the
5 United States; or

6 “(ii) the request was not in con-
7 formity with the requirements of this sec-
8 tion.

9 “(B) TIMING.—A motion to suppress
10 under subparagraph (A) shall be made before
11 the trial, hearing, or other proceeding unless
12 there was no opportunity to make such a mo-
13 tion or the aggrieved person concerned was not
14 aware of the grounds of the motion.

15 “(6) JUDICIAL REVIEW.—

16 “(A) IN GENERAL.—Whenever—

17 “(i) a court or other authority is noti-
18 fied pursuant to paragraph (3) or (4);

19 “(ii) a motion is made pursuant to
20 paragraph (5); or

21 “(iii) any motion or request is made
22 by an aggrieved person pursuant to any
23 other statute or rule of the United States
24 or any State before any court or other au-

1 thority of the United States or any State
2 to—

3 “(I) discover or obtain materials
4 relating to a request issued pursuant
5 to this section; or

6 “(II) discover, obtain, or sup-
7 press evidence or information obtained
8 or derived from a request issued pur-
9 suant to this section;

10 the United States district court or, where the
11 motion is made before another authority, the
12 United States district court in the same district
13 as the authority shall, notwithstanding any
14 other provision of law and if the Attorney Gen-
15 eral files an affidavit under oath that disclosure
16 would harm the national security of the United
17 States, review in camera the materials as may
18 be necessary to determine whether the request
19 was lawful.

20 “(B) DISCLOSURE.—In making a deter-
21 mination under subparagraph (A), unless the
22 court finds that such disclosure would not assist
23 in determining any legal or factual issue perti-
24 nent to the case, the court shall disclose to the
25 aggrieved person, the counsel of the aggrieved

1 person, or both, under the procedures and
2 standards provided in the Classified Informa-
3 tion Procedures Act (18 U.S.C. App.), portions
4 of the application, order, or other related mate-
5 rials, or evidence or information obtained or de-
6 rived from the order.

7 “(7) EFFECT OF DETERMINATION OF LAWFUL-
8 NESS.—

9 “(A) IN GENERAL.—If the United States
10 district court determines pursuant to paragraph
11 (6) that the request was not in compliance with
12 the Constitution or laws of the United States,
13 the court may, in accordance with the require-
14 ments of law, suppress the evidence which was
15 unlawfully obtained or derived from the request
16 or otherwise grant the motion of the aggrieved
17 person.

18 “(B) EXCEPTION.—If the court determines
19 that the request was lawful, it may deny the
20 motion of the aggrieved person except to the ex-
21 tent that due process requires discovery or dis-
22 closure.

23 “(8) BINDING FINAL ORDERS.—Orders grant-
24 ing motions or requests under paragraph (6), deci-
25 sions under this section that a request was not law-

ful, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other related materials shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.”.

(3) CONSUMER REPORTS.—Section 625 of the Fair Credit Reporting Act (15 U.S.C. 1681u), as amended by subsections (b) and (d), is amended by adding at the end the following:

“(p) USE OF INFORMATION.—

“(1) IN GENERAL.—

“(A) CONSENT.—Any information acquired from a request or an order pursuant to this section concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this subsection.

“(B) LAWFUL PURPOSE.—No information acquired from an order pursuant to this section may be used or disclosed by Federal officers or employees except for lawful purposes.

“(2) DISCLOSURE FOR LAW ENFORCEMENT PURPOSES.—No information acquired pursuant to

1 this section shall be disclosed for law enforcement
2 purposes unless the disclosure is accompanied by a
3 statement that the information, or any information
4 derived therefrom, may only be used in a criminal
5 proceeding with the advance authorization of the At-
6 torney General.

7 “(3) NOTIFICATION OF INTENDED DISCLOSURE
8 BY THE UNITED STATES.—Whenever the United
9 States intends to enter into evidence or otherwise
10 use or disclose in any trial, hearing, or other pro-
11 ceeding in or before any court, department, officer,
12 agency, regulatory body, or other authority of the
13 United States against an aggrieved person any infor-
14 mation obtained or derived from a request or an
15 order pursuant to this section, the United States
16 shall, before the trial, hearing, or other proceeding,
17 or at a reasonable time before an effort to so dis-
18 close or so use this information or submit it in evi-
19 dence, notify the aggrieved person and the court or
20 other authority in which the information is to be dis-
21 closed or used that the United States intends to so
22 disclose or so use such information.

23 “(4) NOTIFICATION OF INTENDED DISCLOSURE
24 BY STATE OR POLITICAL SUBDIVISION.—Whenever
25 any State or political subdivision thereof intends to

1 enter into evidence or otherwise use or disclose in
2 any trial, hearing, or other proceeding in or before
3 any court, department, officer, agency, regulatory
4 body, or other authority of the State or political sub-
5 division thereof against an aggrieved person any in-
6 formation obtained or derived from a request or an
7 order pursuant to this section, the State or political
8 subdivision thereof shall notify the aggrieved person,
9 the court or other authority in which the informa-
10 tion is to be disclosed or used, and the Attorney
11 General that the State or political subdivision there-
12 of intends to so disclose or so use such information.

13 “(5) MOTION TO SUPPRESS.—

14 “(A) IN GENERAL.—Any aggrieved person
15 against whom evidence obtained or derived from
16 a request or an order pursuant to this section
17 is to be, or has been, introduced or otherwise
18 used or disclosed in any trial, hearing, or other
19 proceeding in or before any court, department,
20 officer, agency, regulatory body, or other au-
21 thority of the United States, or a State or polit-
22 ical subdivision thereof, may move to suppress
23 the evidence obtained or derived from the re-
24 quest or the order, as the case may be, on the
25 grounds that—

1 “(i) the information was acquired in
2 violation of the Constitution or laws of the
3 United States; or

4 “(ii) the request or the order was not
5 in conformity with the requirements of this
6 section.

7 “(B) TIMING.—A motion to suppress
8 under subparagraph (A) shall be made before
9 the trial, hearing, or other proceeding unless
10 there was no opportunity to make such a mo-
11 tion or the aggrieved person concerned was not
12 aware of the grounds of the motion.

13 “(6) JUDICIAL REVIEW.—

14 “(A) IN GENERAL.—Whenever—

15 “(i) a court or other authority is noti-
16 fied pursuant to paragraph (3) or (4);

17 “(ii) a motion is made pursuant to
18 paragraph (5); or

19 “(iii) any motion or request is made
20 by an aggrieved person pursuant to any
21 other statute or rule of the United States
22 or any State before any court or other au-
23 thority of the United States or any State
24 to—

1 “(I) discover or obtain materials
2 relating to a request or an order
3 issued pursuant to this section; or

4 “(II) discover, obtain, or sup-
5 press evidence or information obtained
6 or derived from a request or an order
7 issued pursuant to this section;

8 the United States district court or, where the
9 motion is made before another authority, the
10 United States district court in the same district
11 as the authority shall, notwithstanding any
12 other provision of law and if the Attorney Gen-
13 eral files an affidavit under oath that disclosure
14 would harm the national security of the United
15 States, review in camera the materials as may
16 be necessary to determine whether the request
17 or the order was lawful

18 “(B) DISCLOSURE.—In making a deter-
19 mination under subparagraph (A), unless the
20 court finds that such disclosure would not assist
21 in determining any legal or factual issue perti-
22 nent to the case, the court shall disclose to the
23 aggrieved person, the counsel of the aggrieved
24 person, or both, under the procedures and
25 standards provided in the Classified Informa-

tion Procedures Act (18 U.S.C. App.), portions of the application, order, or other related materials, or evidence or information obtained or derived from the order.

“(7) EFFECT OF DETERMINATION OF LAWFULNESS.—

“(A) IN GENERAL.—If the United States district court determines pursuant to paragraph (6) that the request or the order was not in compliance with the Constitution or laws of the United States, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the request or the order or otherwise grant the motion of the aggrieved person.

“(B) EXCEPTION.—If the court determines that the request or the order was lawful, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

“(8) BINDING FINAL ORDERS.—Orders granting motions or requests under paragraph (6), decisions under this section that a request was not lawful, and orders of the United States district court requiring review or granting disclosure of applica-

1 tions, orders, or other related materials shall be final
 2 orders and binding upon all courts of the United
 3 States and the several States except a United States
 4 Court of Appeals or the Supreme Court.”.

5 (4) CONSUMER REPORTS REQUESTED BY GOV-
 6 ERNMENTAL AGENCIES.—Section 626 of the Fair
 7 Credit Reporting Act (15 U.S.C. 1681v), as amend-
 8 ed by subsection (d), is amended by adding at the
 9 end the following:

10 “(g) USE OF INFORMATION.—Any information ac-
 11 quired from a request pursuant to this section concerning
 12 any United States person may be used and disclosed by
 13 Federal officers and employees, a State, or a political sub-
 14 division of a State without the consent of the United
 15 States person only in accordance with the procedures es-
 16 tablished under section 625(p).”.

17 (f) DEFINITIONS.—

18 (1) FINANCIAL RECORD REQUESTS.—Section
 19 1101 of the Right to Financial Privacy Act of 1978
 20 (12 U.S.C. 3401) is amended—

21 (A) in paragraph (7), by striking “and” at
 22 the end;

23 (B) in paragraph (8), by striking the pe-
 24 riod and inserting “; and”; and

25 (C) by adding at the end the following:

1 “(9) the term ‘agent of a foreign power’ has the
2 meaning given such term by section 101(b) of the
3 Foreign Intelligence Surveillance Act of 1978 (50
4 U.S.C. 1801(b));

5 “(10) the term ‘aggrieved person’ means any
6 person whose financial records are produced, dis-
7 closed, or otherwise made public without the consent
8 of such person; and

9 “(11) the term ‘foreign power’ has the meaning
10 given such term by section 101(a) of the Foreign In-
11 telligence Surveillance Act of 1978 (50 U.S.C.
12 1801(a)).”.

13 (2) CONSUMER REPORT REQUESTS.—Section
14 603 of the Fair Credit Reporting Act (15 U.S.C.
15 1681a) is amended by adding at the end the fol-
16 lowing:

17 “(y) AGENT OF A FOREIGN POWER.—The term
18 ‘agent of a foreign power’ has the meaning given such
19 term by section 101(b) of the Foreign Intelligence Surveil-
20 lance Act of 1978 (50 U.S.C. 1801(b)).

21 “(z) AGGRIEVED PERSON.—The term ‘aggrieved per-
22 son’ means any consumer or person whose consumer re-
23 port is produced, disclosed, or otherwise made public with-
24 out the consent of such consumer or person.

1 “(aa) FOREIGN POWER.—The term ‘foreign power’
 2 has the meaning given such term by section 101(a) of the
 3 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
 4 1801(a)).”.

5 **SEC. 6. PRIVACY PROTECTIONS FOR PEN REGISTERS AND**
 6 **TRAP AND TRACE DEVICES.**

7 (a) CRIMINAL AUTHORITY.—

8 (1) APPLICATION FOR AN ORDER.—Section
 9 3122(b)(2) of title 18, United States Code, is
 10 amended by striking “a certification by the appli-
 11 cant” and inserting “a statement by the applicant of
 12 specific and articulable facts showing there is reason
 13 to believe”.

14 (2) ISSUANCE OF AN ORDER.—Section 3123(a)
 15 of title 18, United States Code, is amended—

16 (A) in paragraph (1), by striking “the at-
 17 torney for the Government has certified to the
 18 court that the information likely to be obtained
 19 by such installation and use is relevant to an
 20 ongoing criminal investigation.” and inserting
 21 “the application meets the requirements of sec-
 22 tion 3122.”; and

23 (B) in paragraph (2), by striking “the
 24 State law enforcement or investigative officer”

1 and all that follows and inserting “the applica-
2 tion meets the requirements of section 3122.”.

3 (3) REPORTING.—Section 3126 of title 18,
4 United States Code, is amended—

5 (A) in the matter preceding paragraph (1),
6 by striking “law enforcement agencies of the
7 Department of Justice” and inserting “attor-
8 neys for the Government”;

9 (B) in paragraph (4), by striking “and” at
10 the end;

11 (C) in paragraph (5), by striking the pe-
12 riod and inserting “; and”;

13 (D) in the matter preceding paragraph (1),
14 by striking “The Attorney General” and insert-
15 ing the following:

16 “(a) REPORT TO CONGRESS.—The Attorney Gen-
17 eral”; and

18 (E) by adding at the end the following:

19 “(6) whether the application for the order and
20 the applications for any extensions were granted as
21 applied for, modified, or denied;

22 “(7) the specific types of dialing, routing, ad-
23 dressing, or signaling information sought in the ap-
24 plication and obtained with the order; and

1 “(8) a summary of any litigation to which the
2 Government is or was a party regarding the inter-
3 pretation of the provisions of this chapter.

4 “(b) PUBLIC REPORT.—The Attorney General shall
5 annually make public a full and complete report con-
6 cerning the number of applications for pen register orders
7 and orders for trap and trace devices applied for pursuant
8 to this chapter and the number of such orders and exten-
9 sions of such orders granted or denied pursuant to this
10 chapter during the preceding calendar year. Such report
11 shall include a summary and analysis of the data required
12 to be reported to Congress under subsection (a).”.

13 (4) NOTICE.—Section 3123 of title 18, United
14 States Code, is amended by adding at the end the
15 following:

16 “(e) NOTICE.—

17 “(1) INVENTORY.—A court that receives an ap-
18 plication for an order or extension under section
19 3122(a) shall cause to be served on the persons
20 named in the application, and such other parties to
21 communications as the court determines should re-
22 ceive notice in the interest of justice, an inventory,
23 including—

24 “(A) the fact of the application for an
25 order or extension under section 3122(a) and

1 whether the court granted or denied such appli-
2 cation; and

3 “(B) if the order or extension was grant-
4 ed—

5 “(i) the date of the entry of such
6 order or extension and the period of au-
7 thorized, approved, or disapproved use of
8 the pen register or trap and trace device;

9 “(ii) whether a pen register or trap
10 and trace device was installed or used dur-
11 ing the period authorized; and

12 “(iii) the specific types of dialing,
13 routing, addressing, or signaling informa-
14 tion sought in the application and collected
15 by the pen register or trap and trace de-
16 vice.

17 “(2) TIMING.—The court shall serve notice
18 under paragraph (1) within a reasonable time, but
19 not later than 90 days after—

20 “(A) the filing of the application for an
21 order or extension under section 3122(a) that is
22 denied; or

23 “(B) the termination of the period of an
24 order, or extensions thereof, that is granted.

(b) FOREIGN INTELLIGENCE AUTHORITY.—Section 402(c)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(c)(2)) is amended by striking “a certification by the applicant” and inserting “a statement by the applicant of specific and articulable facts showing there is reason to believe”.

19 Section 2331(5) of title 18, United States Code, is
20 amended—

23 “(A) involve acts dangerous to human life
24 that constitute a Federal crime of terrorism (as

1 that term is defined in section 2332b(g)(5));
 2 and”; and

3 (2) by redesignating subparagraph (C) as sub-
 4 paragraph (B).

5 **SEC. 8. PUBLIC REPORTING ON THE FOREIGN INTEL-**
 6 **LIGENCE SURVEILLANCE ACT OF 1978.**

7 (a) IN GENERAL.—Section 601(a) of the Foreign In-
 8 telligence Surveillance Act of 1978 (50 U.S.C. 1871(a))
 9 is amended in the matter preceding paragraph (1)—

10 (1) by striking “, in a manner consistent with
 11 the protection of national security,”; and

12 (2) by inserting “public” before “report”.

13 (b) REDACTION.—Section 601(a)(5) of the Foreign
 14 Intelligence Surveillance Act of 1978 (50 U.S.C.
 15 1871(a)(5)) is amended by inserting “, which may be re-
 16 dacted in order to protect national security” after “that
 17 include significant construction or interpretation of the
 18 provisions of this Act”.

○